

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07

EA-06 FRB-03 INR-07 IO-10 NEA-09 NSAE-00 OPIC-03

SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 OMB-01 L-02 H-02

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R 212044Z MAR 75

FM USMISSION OECD PARIS

TO SECSTATE WASH DC 6144

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PASS TREASURY FOR GRIFFIN

E. O. 11652: N/A

TAGS: EFIN, OECD

SUBJECT: INWARD DIRECT INVESTMENT

REF: DAF/INV/75.16

1. MISSION DRAWS ATTENTION TO REFDOK RE FOREIGN DIRECT INVESTMENT IN OECD COUNTRIES. REFDOK GIVES BACKGROUND FOR NEXT SPECIAL SESSION OF INVISIBLES COMMITTEE ON INWARD DIRECT INVESTMENT (APRIL 23-24, 1975) AND REQUESTS RESPONSES ON SEVERAL QUESTIONS FROM EXPECTED COUNTRY REPS TO THE SPECIAL SESSION.

2. SPECIFIC QUESTIONS RAISED IN REFDOK ARE QUOTED AS FOLLOWS:

(A) EXPERTS ARE INVITED TO MAKE GENERAL COMMENTS ON THE TEXTS REGARDING THEIR OWN COUNTRIES, TO CORRECT ANY ERRORS AND TO PROPOSE ANY ADDITIONS WHICH MIGHT BRING THE INFORMATION UP TO DATE, ESPECIALLY WITH REGARD TO RECENT OR PROPOSED CHANGES IN LEGISLATION OR REGULATIONS.

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(B) IT WOULD BE USEFUL MOREOVER IF, WHERE

APPLICABLE, EXPERTS WERE TO INFORM THE SECRETARIAT
WHETHER

- IN THEIR COUNTRIES A DISTINCTION OF PRINCIPLE
IS MADE BETWEEN INVESTMENT IN NEW ENTER-
PRISES ("GREEN FIELD INVESTMENT") AND TAKE-
OVERS, AND IF SO WHAT THE RULES AND UNDER-
LYING CONSIDERATIONS ARE; AND
- AUTHORISATIONS HAVE RECENTLY BEEN REFUSED BY
VIRTUE OF REMARK (I) TO THE DIRECT INVESTMENT
ITEM I/A IN THE CAPITAL MOVEMENTS CODE, WHICH
SAYS THAT OPERATIONS "SHALL BE FREE UNLESS AN
INVESTMENT IS OF A PURELY FINANCIAL CHARACTER
DESIGNED ONLY TO GAIN FOR THE INVESTOR
INDIRECT ACCESS TO THE MONEY OR FINANCIAL
MARKET OF ANOTHER COUNTRY".

3. SECTION ON US POLICY AND PRACTICE REGARDING INWARD
DIRECT INVESTMENT IS QUOTED BELOW FOR REVIEW BY CON-
CERNED AGENCIES:

(A) AUTHORISATION PROCEDURE:

FOREIGN DIRECT INVESTMENT DOES NOT REQUIRE
AUTHORISATION AND ANY PROCEDURES OR FORMALITIES
RELATING TO INDUSTRIAL OR COMMERCIAL ACTIV-
ITIES IN INDIVIDUAL STATES APPLY EQUALLY TO
ALIENS AND TO NATIONALS. NO REPORTS HAVE TO
BE FILED BY THE BANKS OR OTHER AGENCIES
HANDLING FOREIGN INVESTMENT.

(B) POLICY AND PRACTICE:

THE UNITED STATES HAS AN OPEN-DOOR POLICY
TOWARDS FOREIGN DIRECT INVESTMENT. ANY
RESTRICTIONS IMPOSED UPON ALIEN PERSONS OR
ENTITIES APPLY ONLY TO "ENTERPRISES ENGAGED
IN FRESH WATER SHIPPING, DOMESTIC RADIO
COMMUNICATIONS AND DOMESTIC AIR TRANSPORT, OR
.... LIMIT TO 25 PERCENT ALIEN PARTICIPATION
IN CORPORATIONS ENGAGED IN SUCH ENTERPRISES
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AND PLACE CERTAIN OTHER REQUIREMENTS ON
INVESTMENTS BY ALIENS IN ENTERPRISES ENGAGED
IN COASTAL SHIPPING, HYDRO-ELECTRIC POWER
PRODUCTION, OTHER FORMS OF COMMUNICATIONS AND
THE UTILISATION OR PRODUCTION OF ATOMIC ENERGY."

LATELY A FEW NEGATIVE REACTIONS TOWARDS
FOREIGN DIRECT INVESTMENT HAVE COME FROM

CERTAIN BUSINESS AND POLITICAL CIRCLES, BUT
THE ADMINISTRATION HAS REAFFIRMED ITS
TRADITIONAL LIBERAL ATTITUDE.

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FOREIGN-OWNED MANUFACTURING ENTERPRISES ENJOY EQUAL
STANDING WITH THOSE OWNED BY UNITED STATES CITIZENS.
THIS INCLUDES TREATMENT UNDER THE ANTI-TRUST
LAWS, WHICH ARE DESIGNED TO SUSTAIN COMPETITION
BY PREVENTING ANTI-COMPETITIVE PRACTICES OR UNDUE
ECONOMIC CONCENTRATIONS. FOREIGN ENTERPRISES HAVE
BEEN WELCOME AS PROVIDING MORE COMPETITION IN THE
UNITED STATES MARKETS. A FEW ACQUISITIONS,
MERGERS OR JOINT VENTURES BY FOREIGN COMPANIES
HAVE IN RECENT YEARS RAISED ANTI-TRUST QUESTIONS
WHICH MAINLY INVOLVE PROPOSED AFFILIATIONS WITH
MAJOR, ACTUAL OR POTENTIAL, DOMESTIC COMPETITORS,
AND THE PRIMARY ANTI-TRUST INTEREST HAS BEEN THAT
THE FOREIGN COMPANIES MIGHT BE PREVENTED FROM
INDEPENDENT ACCESS TO THE UNITED STATES MARKET

OR FROM ENTRY THROUGH A SMALLER UNITED STATES
CONCERN.

IN THE FINANCIAL SECTOR THE RAPID EXPANSION OF
FOREIGN BANKING INSTITUTIONS (EITHER THROUGH THE
OPENING OF BRANCHES OR THROUGH TAKEOVER OF LOCAL
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ENTERPRISES) SEEMS TO HAVE LED TO DIFFERENCES OF
OPINION AND PERHAPS MISUNDERSTANDINGS BETWEEN THE
FOREIGN INVESTORS AND THE UNITED STATES BANKING
SUPERVISORY AUTHORITIES, AS WELL AS SOME ANXIETY
IN PRIVATE BANKING CIRCLES. THE DIFFICUL-
TIES MAY WELL BE DUE TO DIFFERENCES BETWEEN
BANKING LEGISLATION AND PRACTICES IN THE UNITED
STATES AND IN OTHER COUNTRIES. UNITED STATES LAW
FORBIDS THE SETTING UP OF BRANCHES OPERATING
SIMULTANEOUSLY IN MORE THAN ONE STATE AND
CONDUCTING MORE THAN ONE TYPE OF BUSINESS AT A
TIME (COMMERCIAL BANKING, LENDING OR MORTGAGES,
CONSUMER CREDIT, ETC.).

4. SECRETARIAT WOULD APPRECIATE WRITTEN RESPONSES TO
QUESTIONS IN PARA 2 ABOVE AND ANY DESIRED CHANGES TO
PARA 3A AND 3B ABOVE BY APRIL 15, 1975. MISSION
REQUESTS CONCERNED AGENCIES FORWARD DESIRED RESPONSES
TO MISSION FOR SUBMISSION TO SECRETARIAT BY APRIL 14,
1975.

5. MISSION WOULD APPRECIATE BEING GIVEN NAME AND
TITLE OF US EXPERT(S) EXPECTED TO ATTEND SPECIAL
SESSION APRIL 23-24 AS SOON AS POSSIBLE.
TURNER

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